

## REMARKS

In the present Office Action, Claim 43 was objected to as allegedly redundant; Claim 51 was objected to as allegedly containing a grammatical error; Claims 57 and 58 were objected to as allegedly containing a syntax error; Claim 38 was rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Gemmell et al. (U.S. Pat. No. 5,691,919); Claims 39, 41, 45-47, 50, 52-54, 57, 58, and 61-64 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Gemmell et al. in view of Toussant et al. (both U.S. Pat. Nos. 5,198,197 and 6,092,726); and Claims 40 and 51 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Gemmell et al. in view of Toussant et al. as applied to Claims 50, 52, 53, and 61-64 above and further in view of Simakrai et al. (U.S. Pat. No. 6,092,478).

Also in the Office Action Claims 42-44, 48, 49, 55, 56, 59 and 60 were objected to as being dependent upon a rejected base claim, but deemed allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Office Action further stated that dependent Claims 82-94 are withdrawn as being dependent on generic Claim 38, not yet allowed. For the reasons discussed below, upon allowance of generic Claim 38, Applicants respectfully request re-entry, reconsideration and allowance of Claims 82-94 dependent on Claim 38.

In this Amendment, Applicants have amended Claims 38, 39, 43, 50, 51, 57, 58, and added Claims 95-98. Thus, upon entry of this Amendment, Claims 38-64 and 95-98 will be pending, of which Claims 38, 39, 50, and 95 are independent claims.

Applicants have amended Claim 43 to more particularly describe and distinctly claim the invention. Applicants respectfully submit that Claim 43, as amended, renders the

objection moot. Therefore, Applicants respectfully request removal of the objection to Claim 43 and its reconsideration.

Applicants have also suitably amended Claims 51, 57, and 58 to address the objections in the Office Action. Therefore, Applicants respectfully request removal of the objections and reconsideration of Claims 51, 57, and 58.

Applicants respectfully submit that Claim 38 as amended is patentable over Gemmell et al. Claim 38 recites in pertinent part a method for tracking usage parameters of product pulled from a roll, the method including the step of obtaining data related to rotation of a rotating member in a spindle apparatus disposed within a product roll, the data representing values proportional to the degree of the rotation of the rotating member. Applicants respectfully submit that the cited reference does not disclose each and every step as presently claimed by Claim 38.

In contrast to Claim 38, Gemmell et al. does not collect data in a spindle; rather, the cited reference uses rotation of a spindle to collect data in a system that encloses or surrounds a roll, which surrounds the spindle. For example, Fig. 1 of Gemmell et al. shows the conventional spindle (28) disposed in a complex system (10). Applicants respectfully submit that one skilled in the art would not have been motivated to fundamentally alter the system of Gemmell et al. as it is suited for its intended purpose in order to dispose that entire system in a roll. Thus, Applicants respectfully submit that Claim 38 is patentable over the cited reference and respectfully request that the rejection be withdrawn and Claim 38 be indicated as allowable. Further, Applicants respectfully request re-entry, reconsideration, and allowance of dependent Claims 82-94 dependent on Claim 38.

Applicants respectfully submit that Claims 39, 41, 45-47, 50, 52-54, 57, 58, and 61-64 are patentable over Gemmell et al. in view of Toussant et al. For instance, Claim 39 as amended claims in pertinent part a method of collecting data representing the amount of product pulled from a roll in one or more pulling events comprising providing a data acquisition device operably connected within a product roll. Applicants respectfully submit that the cited combination does not disclose each and every element of Claim 39.

As the Examiner admits in the Office Action, Gemmell et al. does not include the date and time corresponding to the dispensing event. Further, a sensor (12), a control unit (14) and a magnetic movement detector (34) of Gemmell et al. are all disposed external to a roll (26) as shown for example in Fig. 1. Applicants respectfully submit that it would not have been obvious to one skilled in the art to fundamentally alter the elements of Gemmell et al. so as to dispose those elements in the roll (26).

The Toussant et al. references fail to rectify the deficiencies of Gemmell et al. The Toussant et al. references are generally directed to a weight sensor (30) that is disposed outside of a consumable product. Since Toussant et al. generally suffers from the same deficiency as Gemmell et al., the cited combination does not render Claim 39 obvious. Accordingly, the Applicants respectfully request that the Examiner withdraw the rejection to Claim 39 and indicate its allowance and allowance of its dependent Claims 40-49.

Applicants respectfully submit that Claim 50 is also patentable over Gemmell et al. in view of the Toussant et al. references. Claim 50, as amended, recites in pertinent part a method for collecting and transmitting data related to amount of product pulled from a product roll utility spindle assembly operably connected within a product roll. Applicants

respectfully submit that the cited combination does not disclose each and every step of Claim 50.

As noted above, the Office Action concedes that Gemmell et al. does not include the date and time corresponding to the dispensing event. Further, the elements of Gemmell et al. as described above are located external to the roll (26).

The Toussant et al. references do not cure the deficiencies of Gemmell et al. since the weight sensors (30) of Toussant et al. are also not connected within the product roll. Thus, the cited combination does not render Claim 50 obvious, and Applicants respectfully request that the Examiner withdraw the rejection to Claim 50 and indicate its allowance and the allowance of its dependent Claims 51-64.

Applicants respectfully submit that new Claim 95 essentially claims the subject matter of allowable Claim 55 without adding new matter and without requiring a new search by the Examiner. Therefore, Applicants respectfully request the allowance of Claim 95 and its dependent Claims 96 and 97.


Further, Applicants respectfully submit that new Claim 98, indirectly dependent on Claim 38, only further distinctly claims and patently defines Claim 98 over the cited references.

Applicants respectfully submit that the present Amendment raises no new issues requiring an additional search by the Examiner and responds directly to matters raised in the Office Action. Accordingly, Applicants respectfully request the Examiner to enter the Amendment, reconsider and reexamine the application, and indicate the allowability of pending Claims 38-64 and 82-98.

If the Examiner has any questions upon consideration of this Amendment,  
Applicants invite the Examiner to contact the undersigned at the number appearing below.

Please charge any additional fees required by this Amendment to Deposit Account  
No. 04-1403.

2-4-04  
Date

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